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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

TERRANCE BLAKE,

Defendant and Appellant.

A101024

(San Francisco County
Super. Ct. No. SCN178059)

Terrance Blake appeals his conviction for robbery following a guilty plea. He contends the trial court erred in denying his motion to suppress evidence. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On December 19, 1998, at about 6:25 p.m., appellant approached Barbara Purcell and demanded her purse. When Purcell screamed, appellant hit her in the face with a hard silver object she believed to be a gun. He grabbed her purse, ran to a nearby car, and fled. Purcell called police from a neighbor's home.

A few minutes later, two officers on patrol in a marked police car noticed a car driving without lights and attempted a traffic stop. During the pursuit, appellant drove through stop signs and red lights, finally pulling to the curb lane and jumping from the

car while it was still moving.¹ Appellant admitted that he may have left the keys in the car.

The officers then chased appellant on foot. They saw he was holding a gun and ordered him to drop it. Instead, he pointed the gun at police, who fired at appellant, wounding him. Appellant was transported to the hospital, and the car he had been driving was towed to the Hall of Justice. Purcell's purse was later found in the car.

An amended information charged appellant with brandishing a weapon at a police officer, possession of a firearm by a felon, felony evasion, second degree robbery, and resisting arrest; multiple prior serious convictions and prior strike convictions were also alleged. After appellant's motion to suppress was denied, he pled guilty to robbery, admitting two prior serious convictions and one prior strike conviction. The remaining counts were dismissed. Appellant was sentenced to 20 years in state prison, and timely appealed.

DISCUSSION

Appellant contends the trial court erred when it concluded that he lacked standing to challenge the search of the car he had been driving because it was abandoned.² Appellant maintains he did not relinquish his expectation of privacy in the vehicle when he left it and ran from police.

"To invoke Fourth Amendment protection, [a defendant] must have both a subjective and an objectively reasonable expectation of privacy—an expectation that society is prepared to recognize as reasonable. [Citations.]" (*People v. Thomas* (1995) 38 Cal.App.4th 1331, 1334.) Defendant bears the burden of demonstrating a legitimate expectation of privacy (*People v. McPeters* (1992) 2 Cal.4th 1148, 1172), under the totality of the circumstances presented. (*In re Baraka H.* (1992) 6 Cal.App.4th 1039,

¹ Appellant claimed the motor was not running when he parked the car. When asked by the court if he had parked the car in a legal parking space, appellant replied: "I just swooped it up and jumped out the car. So it was parked."

² The court did not rule specifically on the district attorney's additional arguments that appellant had a limited expectation of privacy because he was on parole and the car was stolen. Appellant testified the car belonged to his son's mother, who had given him permission to drive it.

1044.) We view the record in the light most favorable to the ruling of the trial court, deferring to its findings of historical fact and determining as a matter of law whether there has been an unreasonable search and/or seizure. (*People v. Dachino* (2003) 111 Cal.App.4th 1429, 1432.)

The record here supports the trial court's determination that appellant abandoned any privacy interest he had in the car belonging to his son's mother when he leapt from it and fled from police. Instead of responding appropriately to the attempted traffic stop, appellant ran stop signs and red lights, then jumped from the car while it was still in motion, leaving the keys in the ignition as he fled on foot. Appellant testified that he did not intend to return to the car, and only wanted to evade police because he was a parole violator.³ Under these circumstances, appellant demonstrated neither a subjective expectation of privacy, nor one that society is prepared to recognize as reasonable.

The case on which appellant chiefly relies is not on point. The *Dachino* court held that a defendant had standing to contest the legality of a search of his person, even though he denied that the search had produced a gun, contending it had been planted on him by police. (*Dachino, supra*, 111 Cal.App.4th at pp. 1431-1432.) The *Dachino* court also concluded the lower court's error in denying defendant standing could not be found harmless in that case, because the trial court had not ruled on possible alternative grounds to deny the suppression motion on the merits. (*Id.* at p. 1433.) The issue of whether the defendant had relinquished a reasonable expectation of privacy in the area searched by police simply did not arise in *Dachino*.

While the record below may not have been exhaustively developed, it is sufficient to support the trial court's conclusion, after hearing the testimony of appellant and police,

³ On re-direct, appellant testified that if he had escaped police, he would have gone back later to retrieve his girlfriend's car. That putative intent, however, did not preclude his relinquishment of a reasonable expectation of privacy in the vehicle. (See *In re Baraka H., supra*, 6 Cal.App.4th at p. 1048.)

that appellant abandoned any reasonable expectation of privacy he might have had in the car.⁴

DISPOSITION

The judgment is affirmed.

Corrigan, J.

We concur:

McGuinness, P.J.

Pollak, J.

⁴ Because we conclude appellant failed to demonstrate the requisite reasonable expectation of privacy here, we need not address his additional argument that the trial court “erroneously ended the hearing on the suppression motion [after ruling that appellant lacked standing to challenge the search] without requiring further evidence on the merits of the motion to suppress.” Nor do we reach the argument, raised for the first time in appellant’s reply brief, that the removal of the car he had been driving violated the provisions of Chapter 10 of the Vehicle Code.